

HOUSE BILL 111

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

Kristina Orteiz and Mimi Stewart and Andrea Romero
and Elizabeth "Liz" Stefanics and James G. Townsend

AN ACT

RELATING TO WATER; INCREASING THE MAXIMUM PENALTY FOR A
VIOLATION OF WATER LAW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 72-2-18 NMSA 1978 (being Laws 2001,
Chapter 143, Section 1, as amended) is amended to read:

"72-2-18. STATE ENGINEER--ENFORCEMENT--COMPLIANCE
ORDERS--PENALTY.--

A. When a person, pursuant to a finding of fact,
violates a requirement or prohibition of Chapter 72 NMSA 1978,
a regulation, code, order or special order adopted by the state
engineer pursuant to Section 72-2-8 NMSA 1978, a condition of a
permit or license issued by the state engineer pursuant to law
or an order entered by a court adjudicating a water right, the
state engineer may, in addition to any other remedies available

1 under law, issue a compliance order stating with reasonable
2 specificity the nature of the violation and requiring
3 compliance within a specified time period. A compliance order
4 shall not be effective against ~~[any]~~ a party other than the
5 person against whom the compliance order is issued.

6 B. This section shall not be construed to affect or
7 interfere with any jurisdiction of an irrigation district, a
8 conservancy district, a state court, a federal court or an
9 Indian nation, tribe or pueblo to enforce its orders and
10 decrees pertaining to water rights.

11 C. A compliance order may include an order to cease
12 the violation of a requirement or prohibition of Chapter 72
13 NMSA 1978, a directive issued in accordance with the provisions
14 of Section 72-2-8 NMSA 1978, a condition of a permit or license
15 issued by the state engineer or an order entered by a court
16 adjudicating a water right.

17 D. The state engineer shall provide an opportunity
18 for the person named in the compliance order to have a hearing
19 on the alleged violation pursuant to Section 72-2-16 NMSA 1978.
20 A hearing shall be held if a written request is made to the
21 state engineer within thirty days after receipt of the notice
22 of the compliance order sent by certified mail. If service by
23 certified mail is not possible, the state engineer may serve
24 the compliance order by process server or other effective
25 means. Notice shall be deemed effective when delivered to the

1 address of record of the person named in the compliance order.

2 A compliance order issued pursuant to this section shall become
3 final unless the person named in the order submits a written
4 request for a hearing to the state engineer within thirty days
5 of receipt of the order. A compliance order shall be
6 enforceable only upon becoming final. Nothing in this section
7 shall prohibit the person named in the order from pursuing an
8 informal resolution of the matter after a timely request for
9 hearing has been made.

10 E. A compliance order may require repayment of
11 water that was overdiverted or illegally diverted. Repayment
12 of water may be up to double the amount of the overdiversion or
13 illegal diversion. In determining the repayment of water
14 beyond the amount overdiverted or illegally diverted, the state
15 engineer shall take into consideration the seriousness of the
16 violation, any good faith efforts to comply with the applicable
17 requirements and any other relevant factors. Any requirement
18 to repay water shall not be enforceable until the compliance
19 order becomes final. Installation of a measuring device may be
20 required prior to any future diversion of water. The state
21 engineer shall not pursue a civil penalty pursuant to
22 Subsection G of this section for an overdiversion of a water
23 right. This subsection shall not be construed to alter or
24 affect any stream adjudication court orders in place prior to
25 the effective date of this 2026 act.

1 F. Any appeal to district court shall be conducted
2 pursuant to Chapter 72, Article 7 NMSA 1978 and shall not stay
3 enforcement of the compliance order unless ordered by the
4 district court.

5 G. ~~[After]~~ Prior to issuing a compliance order,
6 ~~[becomes final]~~ the state engineer shall issue a written notice
7 of violation. After issuing a written notice of violation, the
8 state engineer may assess a civil penalty of up to ~~[one hundred~~
9 ~~dollars (\$100)]~~ three thousand four hundred dollars (\$3,400)
10 per day for ~~[violation of the compliance order. Any civil~~
11 ~~penalty assessed shall accrue from the date of assessment of~~
12 ~~the penalty]~~ each day during any portion of which the violation
13 continues. If the water is sold without a permit to do so, the
14 maximum penalty shall be double the economic benefit to the
15 violator resulting from the violation or twenty-five dollars
16 (\$25.00) per barrel of water sold, whichever is greater. In
17 determining the amount of the civil penalty, the state engineer
18 shall take into consideration the seriousness of the violation,
19 any good faith efforts to comply with the applicable
20 requirements and any other relevant factors. A compliance
21 order may require payment of the assessed civil penalty
22 accruing from the date of the notice of violation. The civil
23 penalty shall not be enforceable until the compliance order
24 becomes final.

25 H. If a person does not comply with a compliance

1 order, the state engineer may file a civil action in the county
2 in which the violation occurred to enforce the compliance order
3 and receive any of the remedies provided in this section,
4 including injunctive relief."

5 SECTION 2. Section 72-5A-12 NMSA 1978 (being Laws 1999,
6 Chapter 285, Section 12) is amended to read:

7 "72-5A-12. PENALTIES.--

8 A. A person who or governmental entity that is
9 determined to be in violation of the Ground Water Storage and
10 Recovery Act or a permit issued or rules adopted pursuant to
11 the act may be assessed a civil penalty in an amount not
12 exceeding:

13 (1) [~~one hundred dollars (\$100)~~] three
14 thousand four hundred dollars (\$3,400) per day of violation not
15 directly related to the illegal recovery or use of stored
16 water; or

17 (2) ten thousand dollars (\$10,000) per day
18 of violation directly related to the illegal recovery or use of
19 stored water.

20 B. An action to recover penalties pursuant to this
21 section shall be brought by the state engineer in the district
22 court in which the violation occurred."

23 SECTION 3. Section 72-12-14 NMSA 1978 (being Laws 1949,
24 Chapter 178, Section 3) is amended to read:

25 "72-12-14. SUSPENSION OR REVOCATION OF LICENSE--APPEAL--

1 DAMAGES.--~~[Any license issued under the provisions of this act~~
2 ~~may be suspended or revoked by]~~ Upon notice and after
3 opportunity for a hearing, the state engineer ~~[upon notice and~~
4 ~~hearing, in the event that the license shall have violated any]~~
5 may suspend or revoke a license issued pursuant to the
6 provisions of Sections 72-12-12 through 72-12-17 NMSA 1978 for
7 a violation of a condition of [the] a bond maintained [by him]
8 as a prerequisite for [such] the license. Appeals from the
9 decision of the state engineer may be taken to ~~[the district~~
10 ~~courts of the state]~~ a district court in the same manner ~~[and~~
11 ~~with like effect]~~ as ~~[now]~~ provided for other appeals from
12 action of the state engineer. In the event of such breach, the
13 state engineer, on behalf of the state ~~[of New Mexico]~~ and any
14 other person injured ~~[thereby]~~ by the breach, is authorized to
15 recover in a civil suit in the district court of the county
16 where the well involved is located, judgment for ~~[such]~~ damages
17 ~~[as may have been]~~ sustained by reason ~~[thereof]~~ of the breach.
18 In addition, the state engineer is authorized to recover on
19 behalf of the state ~~[of New Mexico]~~ a civil penalty in an
20 amount to be determined by the district court ~~[in which the~~
21 ~~action is tried]~~ not to exceed ~~[\$1,000.00]~~ ten thousand dollars
22 (\$10,000), and judgment for both damages and penalty shall be
23 against the principal and sureties ~~[upon said]~~ on the bonds."